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OIL POLLUTION PREVENTION, RESPONSE, LIABILITY, AND COMPENSATION ACT OF 1989

OCTOBER 4, 1989.—Ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 1465 which on March 16, 1989, was jointly referred to the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, having filed a report on September 18, 1989, does hereby file the Congressional Budget Office's cost estimate which was subsequently received.

The cost estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 1989.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 1465, the Oil Pollution Liability and Compensation Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1465.

H563-16.

2. Bill title: Oil Pollution Liability and Compensation Act of 1989.

3. Bill status: As reported by the House Committee on Merchant Marine and Fisheries on September 18, 1989.

4. Bill purpose: H.R. 1465 would consolidate federal oil pollution response activities into one entity, the Oil Spill Liability Trust Fund (OSLTF), which would provide for the cleanup, restoration of natural resources and compensation of economic loss from oil spills that threaten U.S. resources or occur on or near U.S. navigable waters. Monies in the OSLTF would also be available for administrative, operating and oversight expenses, including start-up and ongoing costs incurred by the U.S. Coast Guard (USCG) and other federal agencies to implement this bill. Annual contributions to the International Fund (should the International Fund Convention be ratified by the United States) would also be paid from the OSLTF.

Under Title II, the four existing oil pollution funds and compensation programs would be terminated approximately 30 days after enactment of this bill. As of that date, unexpended balances in the U.S. Coast Guard's Pollution Fund (known as the "311k fund") would be transferred to the general fund of the U.S. Treasury, while unexpended balances of the Deepwater Port Liability (DWPF) and Offshore Oil Compensation (OOCF) funds would be credited to the OSLTF. Unencumbered balances in the Trans-Alaskan Pipeline Liability Fund (TAPF), a nonprofit, nonfederal entity, would be rebated to the original contributors upon certification and settlement of all outstanding claims.

Titles IV and V of the bill would provide for enhancements and revisions in federal and private emergency preparedness efforts. The bill would require the USCG to implement the title's requirements through the promulgation of regulations and the completion of several studies. Title IV would require the President to establish an oil pollution research and development program. For this purpose, the bill would authorize appropriations from the OSLTF of $15 million annually.

Title V would require the Department of Commerce (DOC) to use at least $15 million over three years to conduct environmental monitoring in Prince William Sound. The DOC would be required to recover these sums, if possible, from the owner or operator of the *Exxon Valdez*.

5. Estimated cost to the Federal Government: The OSLTF was created by Public Law 99–509, the Omnibus Reconciliation Act of 1986, which also contained amendments to the Internal Revenue Code (concerning related taxes) that would have taken effect only if suitable authorizing legislation had been enacted by September 1, 1987. The Technical and Miscellaneous Revenue Act of 1988 extended this deadline to December 31, 1990. As stated in Section 207 of the bill, H.R. 1465 is such authorizing legislation, and its enactment would therefore trigger the imposition of a 1.3 cent per-barrel tax on all crude oil received by U.S. refineries and on imported petroleum producers. Consequently, the budgetary impact of H.R. 1465 includes both revenue and spending effects, as shown in the following table.

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Estimated revenue effects:					
Tax of 1.3 cents per barrel of oil:					
Revenue gain credited to the trust fund	16	36	13		
Revenue gain, net of income and payroll tax offsets	12	27	10		
Estimated direct spending effects:					
Estimated budget authority [1]	82	49	48	15	
Estimated outlays	56	60	52	21	4
Authorizations:					
Estimated authorization level	20	20	20	49	66
Estimated outlays	8	18	20	43	62
Net increase or decrease (−) in the deficit [2]	52	51	62	65	66

[1] Direct spending effects shown in the table include new spending required by the bill and estimated funding for certain ongoing activities that would be direct spending under this bill but are currently funded with annual appropriations. Based on CBO baseline levels, these expenses are estimated to be about $13 million in fiscal year 1990, growing to about $16 million a year by 1994. If annual appropriations are reduced each year for these activities (and if appropriations for other activities are not increased by a like amount), outlays from appropriations would be reduced by about $70 million over the five-year period.

[2] Outlays less net revenue gain.

The above table does not include federal outlays that may result, in the event of an oil spill, from the new coverage for third-party economic losses, because there is no basis for projecting such costs.

The costs of this bill fall within budget functions 300 and 400.

Basis of estimate: According to the provisions of Public Law 99–509, the creation of the OSLTF and the 1.3 cent-per-barrel tax would become effective on the first day of the first calendar month beginning more than 30 days after enactment of such legislation (referred to as the "commencement date"). For the purposes of this estimate, CBO has assumed that H.R. 1465 will be enacted by the end of October, 1989, resulting in a commencement date for the OSLTF financing tax and expenditures from the OSLTF of December 1, 1989. As of this date, the estimated balance in the OSLTF (consisting of amounts transferred from the DWPF and OOCF) would be about $155 million. These transfers to the new fund and the transfer of 311k fund balances to the general fund would be intragovernmental transactions having no net impact on the federal budget. The rebate of TAPF balances would also have no impact on the federal budget because this fund is not a federal entity.

Revenue effects: The revenue estimates shown in the above table were prepared by the Joint Committee on Taxation (JCT). As shown in the first line of the table, the tax of 1.3 cents per barrel of oil would yield an estimated $65 million in revenues for the trust fund over the 1990–1992 period. These amounts include estimated credits that taxpayers may take against the OSLTF financing tax for amounts paid before January 1987 into the OOCF and the DWPF (plus interest on these funds). The net revenue gain to the government, including income and payroll tax offsets, is estimated to be $49 million over three years (as shown in the second line of the table). The OSLTF financing tax would be in effect from the assumed commencement date of December 1, 1989 through December 31, 1991. The tax would expire sooner if cumulative tax collections credited to the trust fund exceed $300 million. The JCT estimates that collections credited to the trust fund between December 1, 1989 and December 31, 1991 would be about $65 million.

Direct spending effects: H.R. 1465 would provide direct spending authority from the OSLTF for ongoing federal oil spill programs and for new operating and administrative costs that would be incurred as a result of this bill's enactment. Ongoing activities are estimated to cost $13 million to $16 million a year over the 1990–1994 period. In addition, fiscal year 1990 authority reflects one-time start-up costs of about $36 million to purchase removal equipment. In implementing the bill, federal agencies would incur direct spending outlays for newly mandated activities of about $130 million over the first five years. Newly mandated spending would include additional ongoing expenses associated with the administration of a greatly expanded compensation system, as well as the maintenance of additional response teams under the National Contingency Plan. Also included are interim costs associated with the revision of liability regulations and financial responsibility certificates. (Early in fiscal year 1993, all direct spending authority available to the fund would be exhausted, requiring additional appropriations to finance mandated activities in later years.)

Authorizations: For each fiscal year, CBO assumes that the full amount authorized to be appropriated from the OSLTF for research and development programs ($15 million) will be appropriated. An additional $5 million for each of the first three years is also assumed to be appropriated from the general fund for damage assessment at Prince William Sound. (It is possible that these damage assessment costs would be reimbursed, but no reimbursement is assumed for this estimate.) For fiscal years 1993 and 1994, $34 million and $51 million, respectively, have been added to the $15 million research program to show the entire amounts that would have to be provided from the general fund to supplement OSLTF monies. Given the level of funding provided under Public Law 99–499 and assuming that the fund is used for all of the purposes authorized in H.R. 1465, the fund would be depleted by early in fiscal year 1993—even in the absence of any catastrophic spills.

Response costs and damages: Not shown in the table are variable response costs, which are expected to be similar to those now incurred by the Coast Guard from the 311k fund (about $6 million a year at 1989 price levels). Because these costs would not represent any net increase in direct spending, no amounts have been included in this estimate.

H.R. 1465 also would permit claims for third-party economic losses to be paid from the fund when responsible parties cannot be located or do not pay or when claims exceed liability limits. Outlays for such damages are impossible to estimate because they depend on a number of unpredictable factors, such as the number and size of spills as well as the particular circumstances surrounding each incident (for example, the proximity to land or fishing grounds). Even if it were possible to assess the probability of spill occurrence near high-risk areas, it would be impossible to predict the behavior of responsible parties or claimants, which is likely to be the most important determinant of claim costs.

If catastrophic spills occur, payments from the fund would be capped at $1 billion per incident. However, because claims against the OSLTF would be subject to the availability of funds, actual federal outlays would be much less. Under the provisions of Public

Law 99-499, federal liability is limited at all times to the OSLTF balance, which may be augmented by the appropriation of up to a total of $500 million in repayable advances from the Treasury. For fiscal year 1990, uncommitted balances in the fund available to finance a major spill would be about $80 million. Uncommitted balances would decline rapidly to zero by early 1993. Therefore, even with advances at the maximum authorized level, total fund expenditures for a major spill during the early years could not exceed $580 million. Moreover, the authority for advances expires on December 31, 1991. After that, no amounts would be available in the fund for a major spill (or any other purpose) unless additional funding is provided by the Congress. (Given the financing levels provided in Public Law 99-499, the fund would be unable to repay advances of any significant amount.)

Finally, H.R. 1465 would provide that, if and when the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage conventions are ratified by the United States, annual contributions to the International Fund due from U.S. interests would be paid from the OSLTF. Annual contributions would depend on actual spill experience and cannot be estimated precisely. However, based on past USCG analyses, CBO estimates that the U.S. annual contribution would be about $10 million a year by 1993, if the International Convention is ratified by that time.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO has transmitted cost estimates for H.R. 3027, the Oil Pollution, Prevention, Response, Liability and Compensation Act of 1989 (September 12, 1989), and H.R. 1465, the Oil Pollution Liability and Compensation Act of 1989 (September 14, 1989), both as ordered reported by the House Committee on Public Works and Transportation on August 3, 1989.

9. Estimate prepared by: Deborah Reis and Eric Nicholson.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

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